

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Glen F. Wetzel,

Complainant,

vs.

Pacific Bell Telephone Company,

Defendant.

(ECP)

Case 01-10-032

(Filed October 19, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
INVITING COMMENTS ON DRAFT DECISION**

The draft decision of the assigned administrative law judge (ALJ) in this proceeding is attached. The parties may file comments on the draft decision no later than Thursday, February 14, 2002. Comments must be served separately on the ALJ.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become final on the parties.

Dated January 29, 2002, at San Francisco, California.

/s/ Bertram D. Patrick

Bertram D. Patrick
Administrative Law Judge

ALJ/BDP/avs

Decision _____

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**OPINION ON COMPLAINT
REGARDING DIAL TONE DELAY**

Glen F. Wetzel (Complainant) alleges that Pacific Bell Telephone Company (Pacific) has violated the Commission's General Order 133-B (G.O.) standard for dial tone delay. Complainant further states that the potential lack of dial tone on his telephone can lead to a possible life-threatening situation.

Pacific states that in Decision (D.) 00-03-052, the Commission eliminated the dial tone delay requirements set forth in Rule 3.4 of GO 133-B.

Further, Pacific states that it meets the telecommunications industry standard contained in Telcordia GR-506-CORE LSSGR: Signaling for Analog Interfaces, Section 13 "Disconnected Procedures." That publication specifies a timed-release interval of 10-12 seconds for end users with analog interfaces (*i.e.*, customer premises equipment – CPE). Pacific points out that the dial tone delay of concern to the Complainant is strictly a function of the Complainant's choice

to use analog CPE. Pacific submits that Complainant may substantially reduce dial tone delay when the calling party fails to hang up by using digital CPE.

In his reply to Pacific's answer, Complainant argues that in the interests of providing high quality telecommunication service to all Californians as the Legislature intended in Public Utilities Code Rule 709(a), the Commission should restore Rule 3.4.

Discussion

Rule 3.4 was deleted by D.00-03-052. That Decision was an outcome of a Commission-initiated Rulemaking (R.) 98-06-029 regarding service quality.¹ As that Decision notes, dial tone speed standards are inapplicable to the digital central office equipment now in use throughout California; consequently, Rule 3.4 had become extraneous.² Moreover, no party to that Rulemaking demonstrated that the Rule 3.4 standards should be retained or revised.³ Therefore Complainants' argument that Rule 3.4 be reinstated, is rejected.

As Complainant acknowledges, Pacific's dial tone delay (when callers do not immediately hang up and analog CPE is used) is 10 seconds – at the favorable end of the industry's guidelines. Complainant does not deny that he can eliminate the problem he complains about by simply installing a digital telephone.

¹ Order Instituting Rulemaking on the Commission's Own Motion into the Service Quality Standards for All Telecommunications Carriers and Revisions to General Order 133-B.

² D.00-03-052, p. 5.

³ *Id.*

Complainant has failed to show that Pacific is in violation of any Commission Order or Rule regarding dial tone delay. *See* Section 1702 of the Public Utilities Code and Rule 9 of the Commission's Rules of Practice and Procedure. Complaint should be denied.

Procedural Summary

The complaint was filed on October 19, 2001, under the Commission's Expedited Complaint Procedure set forth in Section 1702.1 of the Public Utilities Code and Rule 13.2 of the Commission's Rules of Practice and Procedure. Defendant filed an answer on November 20, 2001. Pursuant to a ruling issued by the administrative law judge, Complainant filed a reply on December 19, 2001. There being no material facts in dispute, no evidentiary hearing was held and this matter was submitted for decision based on the pleadings. A copy of the ALJ's draft decision was mailed to the parties on _____, and comments were filed on _____.

O R D E R

IT IS ORDERED that:

1. The complaint is denied.
2. (ECP) Case 01-10-032 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Inviting Comments on Draft Decision on all parties of record in this proceeding or their attorneys of record.

Dated January 29, 2002, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

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